

# EXHIBIT D

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

In Re:

Bair Hugger Forced Air Warming  
Products Liability Litigation

This Document Relates To:

All Actions

MDL No.

15-2666 (JNE/FLM)

VIDEOTAPED DEPOSITION

OF

CHRISTOPHER NACHTSHEIM

Minneapolis, Minnesota

Tuesday, November 29, 2016

Reported by:

Amy L. Larson, RPR

Job No. 113495

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1 NACHTSHEIM

2 THE VIDEOTAPED DEPOSITION OF CHRISTOPHER

3 NACHTSHEIM, taken on this 29th day of November,

4 2016, at the Law Offices of Faegre Baker

5 Daniels, LLP, 2200 Wells Fargo Center, 90 South

6 Seventh Street, Minneapolis, Minnesota, commencing

7 at approximately 9:11 a.m.

8

9 PROCEEDINGS

10

11 THE VIDEOGRAPHER: This is the

12 Start of tape labeled number 1 of the

13 videotaped deposition of Christopher

14 Nachtsheim in the matter of In Re: Bair

15 Hugger Forced Air Warming Products Liability

16 Litigation in the U.S. District Court for the

17 District of Minnesota, Case Number 15-2666

18 (JNE/FLM).

19 This deposition is being held at the

20 Faegre Baker law firm in Minneapolis,

21 Minnesota, on November 29th, 2016. We are

22 going on the record at 9:11 a.m. My name is

23 Kraig Hildahl, I'm the legal video specialist

24 from TSG Reporting. The court reporter is

25 Amy Larson also in association with

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2 TSG Reporting.

3 Will counsel please introduce

4 themselves for the record.

5 MS. GARCIA: Christin Garcia,

6 counsel for defendants 3M and Arizant.

7 MS. LEWIS: Deborah Lewis also

8 counsel for defendants 3M and Arizant.

9 MR. SACCHET: Michael Sacchet for

10 plaintiffs.

11 THE VIDEOGRAPHER: Will the court

12 reporter please swear in the witness and then

13 we can proceed.

14

15 CHRISTOPHER NACHTSHEIM,

16 a witness in the above-entitled action,

17 after having been first duly sworn, was

18 deposed and says as follows:

19

20 EXAMINATION

21 BY MS. GARCIA:

22 Q. Hello, Professor Nachtsheim.

23 A. Hello.

24 Q. Thank you for coming here today. Could you

25 start by, for the record, just providing your

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2 full name and spell your last name and let us

3 know your address.

4 A. Christopher John Nachtsheim. And it's N as

5 in north, A-C-H-T, S as in Sam, H-E-I-M.

6 Address is 1789 Summit Avenue, St. Paul,

7 Minnesota 55105.

8 Q. Thank you. Have you ever been deposed

9 before?

10 A. Yes.

11 Q. Okay. The one rule of deposition I just want

12 to reinforce today is if you have any

13 difficulty understanding -- well, if you

14 don't understand my question, if you would

15 like me to clarify something, will you please

16 let me know that?

17 A. Uh-huh. Yes.

18 Q. Yes?

19 A. Yes.

20 Q. There's rule number 2.

21 A. That's rule number 2, I knew that.

22 Q. You will need to say things out loud so that

23 we can get an accurate transcription of the

24 record in writing where your head movements

25 can't be taken down, and then we will try not

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2 respect to the forced-air warming device, do  
3 you?  
4 A. No.  
5 Q. The fact that you received consulting fees  
6 from Augustine Biomedical or a successor  
7 company did not influence your ability to  
8 analyze this data, did it?  
9 A. I hope not. I don't believe it did. We try  
10 to be objective about everything we do. But,  
11 no, it wouldn't have affected my analysis of  
12 this data.  
13 Q. The amounts that you received were normal  
14 consulting fees, correct?  
15 A. Correct.  
16 MS. GARCIA: Object to the form of  
17 the question.  
18 BY MR. SACCHET:  
19 Q. They were nothing out of the ordinary in  
20 terms of other fees that you charged other  
21 third parties to perform statistical  
22 analysis, correct?  
23 A. Correct.  
24 Q. You were previously asked a series of  
25 questions regarding an operating room in a

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2 warehouse of sorts, correct?  
3 A. Yes.  
4 Q. And there were statements to the effect that  
5 the results from the testing that had been  
6 performed in that warehouse were,  
7 quote/unquote, "goofy"; is that correct?  
8 A. Correct.  
9 Q. And you had mentioned that you were concerned  
10 by some of the testing that had in fact  
11 occurred in that warehouse, correct?  
12 A. Correct.  
13 Q. The experimental portion of the McGovern  
14 study involving the simulated hip and lumbar  
15 spine surgeries were not performed in that  
16 warehouse, were they?  
17 A. They were not performed in that warehouse.  
18 Q. The experimental --  
19 MS. GARCIA: Object to lack of  
20 foundation on that.  
21 BY MR. SACCHET:  
22 Q. Where was the McGovern study performed?  
23 A. I believe that was in the hospital. That was  
24 the UK hospital, I believe.  
25 Q. And the UK is not the same place as the

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2 warehouse that you visited, is it?  
3 A. Correct.  
4 Q. With respect to the Belani study, do you know  
5 where the experimental portion of the study  
6 was performed?  
7 A. It was performed in a University of Minnesota  
8 Hospital.  
9 MS. GARCIA: Objection; asked and  
10 answered. And I would note for the record  
11 that before we came on after this break you  
12 told us that you were instructed by your  
13 co-counsel, who you had called, to use up and  
14 run out your time after I had asked for time  
15 to redirect. And the video record will  
16 reflect that there's been a marked decrease  
17 in the pace of your questions. And at this  
18 point you are simply going over things that  
19 we have discussed extensively this morning  
20 and all day long, and I do have a few  
21 follow-up questions simply to clarify a  
22 couple of things, and Professor Nachtsheim, I  
23 would appreciate the opportunity to ask  
24 those --  
25 MR. SACCHET: I'm going to --

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2 MS. GARCIA: -- just a few  
3 questions.  
4 MR. SACCHET: I'm going to object  
5 to the recitation of what I represented  
6 during the break --  
7 MS. GARCIA: Did you say that?  
8 Did you say that?  
9 MR. SACCHET: -- because I  
10 represented that I would be using the rest of  
11 the time and that it was not going to be for  
12 an improper purpose, but seven hours are  
13 allotted for the deposition --  
14 MS. GARCIA: You did say it was  
15 your marching orders.  
16 MR. SACCHET: -- and that seven  
17 hours has been noted --  
18 MS. GARCIA: You also said it was  
19 your marching orders --  
20 MR. SACCHET: -- and it's also my  
21 choice.  
22 MS. GARCIA: -- everyone in this  
23 room heard it.  
24 MR. SACCHET: And it's also my  
25 choice.